

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

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September 25, 2009

Ms. Helen Bean
Economic Development and Housing Director
City of Emeryville
1333 Park Avenue
Emeryville, CA 94608-3517

Dear Ms. Bean:

RE: Review of the City of Emeryville's Adopted Housing Element

Thank you for submitting Emeryville's housing element, adopted on June 16, 2009 and received for review on June 26, 2009. The Department is required to review draft housing elements and report the findings to the locality pursuant to Government Code Section 65585(h). Conversations with Ms. Deborah Diamond, General Plan Update Project Manager, and Ms. Amy Hiestand, Housing Coordinator, facilitated the review.

The Department commends Emeryville's recognition of the direct influence of the availability of public facilities and transit options on the City's ability to accommodate residential growth and encourage sustainability. The land inventory's inclusion of information on distances from each identified site to transit, parks, grocery stores and schools addresses growing concerns related to climate change and the efforts to promote housing and land-use policies and programs.

The revised draft element addresses most of the statutory requirements described in the Department's August 22, 2008 review. However, further revision is necessary to comply with State housing element law (Article 10.6 of the Government Code). The following describes additional changes needed:

1. *Include an inventory of land suitable for residential development, including vacant sites and sites having the potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites (Section 65583(a)(3)). The inventory of land suitable for residential development shall be used to identify sites that can be developed for housing within the planning period (Section 65583.2).*

The element was revised to include information on 19 completed and approved projects and provides necessary information to document their projected affordability based on approved development agreements under the City's AHSA Program or Redevelopment Agency. Specifically, Table 2-55 identifies 89 very low-, 55 low-, 118 moderate- and 1,019 above moderate-income units since July 2006. Crediting

these 19 projects against the City's regional housing need allocation (RHNA) based on the affordability information provided in Table 2-55, Emeryville has an identified shortfall of 310 housing units, of which 206 are for lower-income households, to accommodate the City's RHNA.

To accommodate this shortfall, the City's sites inventory (Table 3-2) identifies sites appropriate and available for residential use in the planning period; however, the element includes only those same projects previously credited against the City's RHNA in Table 2-55, as detailed above, and indicates no additional sites to accommodate the identified shortfall. Specifically, the element indicates total anticipated development capacity of 1,281 units within these 19 projects during the current housing element planning period, stating this capacity "exceeds the (overall) RHNA goal by 144 units." Please note, where there are projects with approved or proposed development approvals, these units must be credited based on the anticipated rent and sales prices or other mechanisms establishing affordability (i.e., affordability restrictions under the City's AHSA or RDA requirements) and not on zoning or allowed density. As noted in Table 2-55, the City has identified specific unit counts within each of these 19 projects which are subject to approved or tentative development agreements establishing affordability, only a portion of which will be affordable to lower-income households. The City, therefore, cannot credit the total capacity potential of these projects towards its lower-income need based on density alone.

Government Code Section 65583.2(c)(3)(A)&(B) requires the analysis of the land inventory to demonstrate the appropriateness of zoning to encourage and facilitate the development of housing affordable to low-income households. This requirement is relevant to analyzing sites in the inventory available for development and not a substitute for describing the anticipated or proposed rents or sales prices of actual projects when approved or entitled.

The previously submitted draft included a listing of potential sites for additional housing (page 69 of the June 30, 2008 draft element), which appear to have the potential to address this remaining need. These sites, however, have been removed from the adopted element. For example, the previous draft included a listing of sites (Table 3-4, page 69 – Sites 26, 44, 48, 50, 51, 55, 56, 57 and 59) with the potential to accommodate 1,818 units on residentially and non-residentially (M-U, I-L, C-G) zoned sites allowing residential development. Absent the inclusion of these sites and analysis demonstrating their availability in the planning period it is unclear how the City proposes to address its remaining need of 310 units. Information on the necessary analysis required to demonstrate the appropriateness and availability of these sites is detailed in the Department's August 22, 2008 review.

2. *Analyze potential and actual governmental constraints upon the maintenance, improvement, and development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures. The analysis shall also demonstrate local efforts to remove governmental constraints that hinder the locality from meeting its share of the regional housing need in accordance with Section 65584 (Section 65583(a)(5)).*

Inclusionary Housing Requirements: The element indicates the City is considering expanding its current Affordable Housing Set-Aside Ordinance to require rental projects to provide units for moderate- and very low-income households (Policy II-A-3). While the revised element describes the proposed framework of the inclusionary requirement, it must include a complete analysis of the impact of those and other inclusionary requirements on the cost and supply of housing. In particular, the element should evaluate: 1) impacts of the discretionary approval process for requesting flexibility in meeting inclusionary requirements on timing, predictability, and certainty; 2) the feasibility impacts of the proposed income targeting mix relative to project size; and, 3) the availability of funding, incentives or regulatory concessions to facilitate compliance with inclusionary requirements.

Constraints on Persons with Disabilities: The element indicates the City has a formalized process for review of requests for reasonable accommodation. The element, however, should describe this process, including level of review.

3. *Identify adequate sites which will be made available through appropriate zoning and development standards and with public services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels. Where the inventory of sites, pursuant to paragraph (3) of subdivision (a), does not identify adequate sites to accommodate the need for groups of all household income levels pursuant to Section 65584, the program shall provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including density and development standards that could accommodate and facilitate the feasibility of housing for very low- and low-income households (Section 65583(c)(1)).*

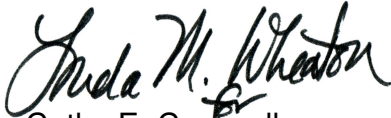
As noted in Finding 1, the element does not include a complete site analysis and therefore, the adequacy of sites and zoning were not established. Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites.

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The Department would be happy to arrange a meeting in either Emeryville or Sacramento to provide any assistance needed to facilitate your efforts to bring the element into compliance. If you have any questions or would like assistance, please contact Jennifer Seeger, of our staff, at (916) 322-4263.

Sincerely,

A handwritten signature in black ink, appearing to read "Cathy E. Creswell". The signature is fluid and cursive, with the first name "Cathy" being more prominent.

Cathy E. Creswell
Deputy Director

Enclosure

cc: Deborah Diamond, General Plan Update Project Manager, City of Emeryville
Amy Hiestand, Housing Coordinator, City of Emeryville